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COMMENTS FOR THE ARIZONA CORPORATION COMMISSION  
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THE BOULDERS HOMEOWNERS ASSOCIATION

PUBLIC MEETING ON BLACK MOUNTAIN SEWER COMPANY

11/22/06

Thank you for the opportunity to speak with you today concerning Black Mountain Sewer Co.'s request for a rate increase. My name is Les Peterson and I am the Vice President of the Boulders Homeowners Association. I, and Bob Williams, are the designated interveners on behalf of the organization concerning this case.

We are in overall agreement with and fully support the findings and recommendations of Judge Nodes concerning this case. We believe his recommendation is fair and we agree with his timing as to implementation of both the rate increase and the remedies he suggests to eliminate the odors that have compromised and continue to degrade the quality of life of our residents.

I will address Black Mountain Sewer's exceptions now.

**1. Request for an Extension of Time to Fix Odor Problems – Oppose**

We oppose any further extension of time beyond the 180 days recommended by Judge Nodes to fix the odor and related problems.

Algonquin has owned Black Mountain Sewer for five years now. We have been telling them of and requesting them to fix the problems with their antiquated and ill functioning sewer system in Carefree throughout these five years. These problems have included repulsive odors over extended periods of time, sewerage backing up into homes and flowing out of man-hole covers and lift stations, excessive noise and window rattling vibrations from their equipment, and trucks pumping from open man-hole covers and lift stations in densely populated neighborhoods during all hours of the day and night.

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Our requests to fix this system have met with denial from Black Mountain Sewer that any problems existed, and were summarily dismissed.

Black Mountain has known of the operational problems with their system for the last five years - and in great specificity since they filed for this requested rate increase on September 16, 2005, which resulted in our testimony before this Commission and nearly 40 letters attesting to these problems - that by this time we believe they should have identified the problem areas in their system and the solutions that would remedy them, and already be implementing the solutions. Given the severity of the problem and its' continuing nature, there is a sense of urgency among residents of the Boulders, after all of these years, to get the odor problem addressed and the solution to fix the problems implemented far sooner than putting it in place 360 days from now as requested by Black Mountain Sewer.

We are aware that a 100% solution is difficult, if not impossible, but we wish to emphasize that the odors are more than occasional; they are **persistent, frequently strong and continue even now.** I have brought with me documentation of the continuing problem as evidenced by 9 Boulders residents within the last 2 weeks to support our concerns and would be happy to provide copies to the Commission or its staff.

We believe that the 180 days timing for the implementation of the remedies from the effective date of this Decision recommended by Judge Nodes is sufficient, and we oppose any extension.

**2. Black Mountain's Request to Let It Use Most Appropriate Remedy - Agree if Commission Orders Conditions Below**

We agree with Black Mountain's recommendation that it not be restricted to the remedy or remedies stated in Judge Nodes' Order but instead be allowed to determine and implement the most effective remedy BUT ONLY IF the following rights are allowed the Parties:

- a. Parties' Right to State Whether the Solution(s) Implemented Have Fixed the Problems Within 30 days of Implementation**

We ask that as a condition of broadening the solutions Black Mountain can chose from, the Commission order that all Parties have a right, within 30 days AFTER the remedy has been implemented and BLACK MOUNTAIN has filed a statement stating that they believe that the odor problem has been remedied, to indicate to the Commission whether, ON A PRELIMINARY BASIS, they agree or disagree that the odor problem has been remedied.

We believe Judge Nodes' Order implicitly allows this after the fact right and that Black Mountain assumes the same, but ask that the Commission make it explicit. It is important that the Parties have the right to report to the Commission, or Judge Nodes, whether they agree the odor problem has been 'solved' on a preliminary basis after the implementation of the engineering study's findings or Black Mountain's alternative solution takes place, not speculating on its' effectiveness before its' implementation. If the selected solution is not working at the onset, we believe it would be imperative to identify that situation very quickly so that alternative solutions could be developed and implemented with a minimum of time wasted.

**b. Solution(s) Implemented Need to Be Tested and Proven to be Effective For One Full Year**

Odors in the Boulders community intensify in the winter months because the heavier cold air clings closer to the ground, and many residents return to their winter homes, increasing usage of the Black Mountain system. Thus, the real proof of whether the odor and related problems have actually been solved will come only when the remedy proposed by Black Mountain has been in place and working effectively through a complete usage cycle, a full year.

Again, we agree that Black Mountain should be allowed to implement the most effective remedy as stated in its Exception but only if the Parties have ONE YEAR after the solution has been implemented to state whether in fact, the solution implemented actually works. In other words, when Black Mountain files its notice claiming that it has implemented the selected solution and that the odor problem has been solved – see Point a. above -, that solution to needs to be tested and proven by usage and by time – specifically, in this case, one year.

We respectfully request that the parties to this action be granted the right at the conclusion of the one year "Test Period" after the implementation of the selected solution to report to the Commission, or Judge Nodes, whether they agree that the odor problem in the Boulders has, in fact, been "solved." If the odor and related problems persist, and have not been solved, the parties of this action shall have the right to seek a hearing on this matter before the Commission and to request that additional remedial actions be taken.

We thank you for your time and efforts on our behalf, and look forward to a constructive and effective solution to our odor problems.

Respectfully Submitted,

Bob Williams and Les Peterson, for the Boulders Homeowners Association